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21 MC 101 (AKH)
02 Civ. 7154 (AKH)

ALVIN K. HELLERSTEIN, U.S.D.J.:

Thus, six cases were selected for damages-only discovery and trials. See Order dated July 2, 2007, 21 MC 97, Doc. No. 1114; In re September 11 Litigation, 21 MC 97 (AKH), 2007 WL 1965559 (S.D.N.Y. July 5, 2007). The stratagem proved to be useful, and all but three of the remaining 41 cases settled.

At this point, a damages-only trial would not be helpful. The values of earlier settlements have erased the uncertainties regarding damages. Discovery has been completed, or is close to being completed. As plaintiff's submission represents, the parties have taken approximately 150 depositions, and the Transportation Security Agency, as of October 2009, processed approximately 450,000 pages of documents. The parties are just about ready for trial.


The court is now concerned with fixing trial schedules for cases in both the "100" and "101" master calendars, selecting representative cases to be tried, and effectuating various efficiencies. The parties in a number of cases have expressed interest in discussions of settlements, and the court should be attentive to those interests as well. At this point, conducting a damages-only trial for Bavis would be a diversion, rather than a useful stratagem.

In addition, it will not be easy to delineate what should be tried and what should be left open. Plaintiff will wish to present facts which they claim are relevant to damages, and which defendants will oppose as relevant mainly to liability. It will not be easy to delineate what might be advisory, and what, conclusive. The differences will intrude on time that could be better spent on more constructive issues.

Accordingly, defendants' motion is denied. The Clerk shall mark the motion (Doc. # 1005) as terminated.

SO ORDERED.

Dated: February 2, 2010
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge